

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,
Plaintiff,

v.

ADRIAN GELSON-DE LA CRUZ,
Defendant

CRIM. NO. 17-044 (JAG)

UNITED STATES' SENTENCING MEMORANDUM

TO THE HONORABLE COURT:

The United States of America, by and through the undersigned attorneys, very respectfully states and prays as follows:

I. INTRODUCTION

On April 18, 2017 defendant Adrian Gelson-De La Cruz pled guilty to the One-Count of the Indictment (Reentry of Removed Aliens), in violation of Title 8, *United States Code*, Section 1326(a), by way of a straight plea.

The United States agrees with the Probation Officer's calculation of the sentencing guidelines as contained in the Presentence Report (DE No. 12) and, in consequence, it respectfully submits that a sentence within the applicable guidelines of a Total Offense Level (TOL) of 10, combined with his Criminal History Category, followed by a Term of Supervised Release as required by law, is sufficient but not greater than necessary and would address the seriousness of the offense and would achieve the necessary deterrence.

II. FACTUAL BACKGROUND

Around January 21, 2017, the United States Coast Guard (USCG) Cutter Joseph Tezanos intercepted a 28-foot yawl-type-vessel containing thirty-eight (38) people at 35 nautical miles, NW of Aguadilla PR.

Because the vessel had an unsafe amount of passengers on board and did not disclose its nationality, CG agents intervened. Upon removing the passengers for safety of life at sea (SOLAS) reasons, all passengers admitted to being citizens and nationals of the Dominican Republic and that they did not have immigration documents to enter or remain in the United States legally.

The Coast Guard entered all individuals' biometric data into criminal and immigration databases, and eighteen (18) of the passengers came back positive with prior criminal and immigration history, including Adrian GELSON-De La Cruz.

As to immigration history, on February 7, 1995, GELSON was ordered removed by the District Director and was physically removed on February 9, 2005. He was again encountered in the United States and was ordered removed by an Immigration Judge on September 12, 2002, and was again physically removed on December 13, 2012. On June 12, 2008, GELSON was encountered by U.S. Deportation Officers in the United States, his previous order of removal was reinstated and he was physically removed on February 26, 2009.

As to criminal history, GELSON was convicted on December 9, 1994, in the Puerto Rico Superior Court for violations of the Puerto Rico Weapons laws and was sentenced to six (6) months of imprisonment. On December 3, 2002, he was sentenced to Time Served in United States District Court of Puerto Rico, for a violation of Title 8, *United States Code*, Section 1326 (a) and (b)(2).

III. PENALTIES

The maximum penalties for **COUNT ONE** include a term of imprisonment for twenty (20) years; a term of supervised release of no more than one (3) years; and a fine not to exceed \$250,000.00.

WHEREFORE, the United States, very respectfully, submits that a sentence within the applicable guidelines of a Total Offense Level (TOL) of 10, combined with his Criminal History Category, followed by a Term of Supervised Release of three (3) years, is sufficient but not greater than necessary and would address the seriousness of the offense and would achieve the necessary deterrence.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 4th day of August 2017.

ROSA EMILIA RODRIGUEZ-VÉLEZ
United States Attorney

s/ Cristina Caraballo-Colón
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel for the defendant.

s/ Cristina Caraballo-Colon
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Special Assistant United States Attorney